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EXAMINER
VU, TUAN A

ART UNIT	PAPER NUMBER
2193	

DATE MAILED: 11/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	10/601,562	KIM, YOUNG-GU
	Examiner	Art Unit	
	Tuan A. Vu	2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _31 August 2006_.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-21_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1-21_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   This action is responsive to the Applicant's response filed 8/31/2006.

As indicated in Applicant's response, claims 12, 14 have been amended. Claims 1-21 are

pending in the office action.

Claim Rejections - 35 USC § 101

2.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
> any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
> requirements of this title.

3.   Claims 9-11 are rejected under 35 U.S.C. 101 because the claimed invention is directed

to non-statutory subject matter.

> The Federal Circuit has recently applied the practical application test in determining whether the claimed
> subject matter is statutory under 35 U.S.C. § 101. The practical application test requires that a " useful,
> concrete, and tangible result" be accomplished. An "abstract idea" when practically applied is eligible for a
> patent. As a consequence, an invention, which is eligible for patenting under 35 U.S.C. § 101, is in the
> "useful arts" when it is a machine, manufacture, process or composition of matter, which produces a
> concrete, tangible, and useful result. The test for practical application is thus to determine whether the
> claimed invention produces a "useful, concrete and tangible result".

Specifically, claim 9 recites an apparatus comprising a first unit installing a device driver

using a input file; and a second unit which re-installs the device driver using the input file when

the re-installation is requested. From the specifications, these recited units are computer-

executable software-implemented functional entities; and the claim lacks teaching to enable one

skill in the art to reasonably construe that a hardware or tangible device is supporting the

functionality of the software entities thus claimed. Further, there is no implicit or explicit

teaching in the disclosure that otherwise would unequivocally enforce that 'apparatus' must be a

computer device at all time; nor is there any explicit and deliberate definition therein by which

the 'apparatus' as recited can only be construed as one meaning. Thus broadest interpretation

has been used, and apparatus amounts to first and second units as recited. Comprising solely of

software entities without any such tangible support or hardware/executing engine to carry the

functionality of these software entities, the claimed invention is not reasonably perceived as able

to yield a tangible result. The claim hence fails to fulfill the Practical Application Test as set

forth above; and is rejected for leading to non-statutory subject matter.

Claims 10-11 are rejected for also failing to provide a hardware-based or tangible

embodiment that would support the functionality of the recited elements of the base claim.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this
> or a foreign country, before the invention thereof by the applicant for a patent.

5.   Claims 1-4, 9-10, 12-15, 17-21 are rejected under 35 U.S.C. 102(a) as being anticipated

by Pro/Intel, "Installing the Intel Pro/Wireless 2011 LAN PC Card in Windows 2000

Professional", Jan 08 2002, *WinBook Tech Article* - article # WBTA09000774

(hereinafter IntelWBTA).

As per claim 1, IntelWBTA discloses a method of installing a device driver in a

computer to drive a device that performs a predetermined function, the method comprising:

installing in the computer the device driver using a device driver file provided from the outside

(e.g. steps 4-10, pg. 3); and copying and storing the device driver file (e.g. step 10, pg. 3).

As per claim 2, IntelWBTA discloses re-installing the device driver in the computer using the stored device driver file (e.g. steps 4-13, pg. 4-6) when re-installation of the device driver is requested (e.g. *Select Setup.exe* –step 4, pg. 5).

As per claim 3, IntelWBTA generating an icon for re-installation (e.g. steps 3-4 pg. 5) of the device driver after the device driver file is copied and stored.

As per claim 4, IntelWBTA discloses re-booting the computer after the device driver file is copied and stored (e.g. *Restart ... prompted by Windows* -- step 11, pg. 3).

As per claim 9, IntelWBTA discloses an apparatus installing a device driver to drive a device that performs a predetermined function, the apparatus comprising:

a first driver installation unit installing in the apparatus the device driver using a device driver file input from the outside while storing a device driver file (e.g. steps 4-10, pg. 2-3); and

a second driver installation unit, which re-installs the device driver using the stored device driver file input from the first driver installation (e.g. steps 4-13, pg. 4-6) when re-installation of the device driver is requested (e.g. *Select Setup.exe* –step 4, pg. 5).

As per claim 10, IntelWBTA discloses the first driver installation unit wherein:

a file examination unit, which examines whether the device driver file is input and outputs an examination result (e.g. *insert CD, auto run...window explaining ... features* - steps 1-2, pg. 1) as a first control signal;

a first installation preparing unit, which prepares for installation of the device driver in response to the first control signal and outputs a preparation completion signal (e.g. *message ... has found ... device* - steps 4-7, pg. 2) representing whether the preparation of installation is completed;

a first installation unit, which installs the device driver in response to the preparation

completion signal (steps 8-10 – pg. 3); and a storing unit, which copies and stores the device

driver file (step 10- pg. 3 – Note: installation finished reads on file being stored by virtue of

inherent teaching).

As per claim 12, IntelWBTA discloses a machine-readable storage storing at least one

program controlling a computing device according to a process comprising:

receiving a device driver file; installing the device driver in the computer; and copying

and storing in the computer the device driver file (e.g. steps e.g. steps 4-10, pg. 2-3).

As per claim 13, IntelWBTA discloses allowing re-installation of the device driver in the

computer using the stored device driver file (steps 4-13, pg. 4-6) when re-installation of the

device driver is requested (*Select Setup.exe* –step 4, pg. 5).

As per claim 14, IntelWBTA discloses determining whether the device driver file is

input (*insert CD, auto run...window explaining ... features* - steps 1-2, pg. 1); preparing for

installation of the device driver in the computer when it is determined that the device driver file

is input (e.g. steps 4-7, pg. 2); and installing the device driver in the computer (steps 8-10 – pg.

3).

As per claim 15, IntelWBTA discloses generating a device driver re-installation icon;

and upon selecting the device driver re-installing icon (steps 3-4 pg. 5 – Note: icon in select

Select.exe step 4 reads on selecting re-installation icon), re-installing the input device driver

using the stored device driver file without accessing the input device driver file.

As per claim 17, IntelWBTA discloses determining whether the device driver file is

input; preparing for installation of the device driver in the computer when determined that the

device driver file is input; and installing the device driver in the computer (refer to the rejection of claim 14)

As per claim 18, IntelWBTA discloses wherein the installing of the device driver is performed after the copying and storing (e.g. *finished installing software required for this device* - steps 4-10, pg. 2-3 – Note: run 'Setup.exe' in step 4, pg. 4 reads on installation after the driver is loaded in step 10 of pg. 3) of the device driver file is performed.

As per claim 19, IntelWBTA discloses the copying and storing of the device driver file is performed (e.g. steps 4-14, pg. 4-6) after the installing of the device driver is performed.

As per claim 20, IntelWBTA discloses wherein the copying and storing of the device driver file and the installing of the device driver are performed, at the same time (e.g. steps 4-10, pg. 2-3; steps 4-14, pg. 4-6 – Note: inherent copying of file for storing in the course of installing a device driver reads on copying and installing being performed in one instance of installation).

As per claim 21, IntelWBTA discloses a method of installing a device driver in a computer to drive a device that performs a predetermined function, the method comprising: inputting files having at least a device driver file used in installing in the computer the device driver (*insert CD, auto run...window explaining ... features* - steps 1-2, pg. 1); and copying and storing the device driver file from among the input files (e.g. *finished installing software required for this device* - steps 4-10, pg. 2-3).

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 5-8, 11 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Pro/Intel, "Installing the Intel Pro/Wireless 2011 LAN PC Card in Windows 2000 Professional"

as applied to claims 1, 9, and 13 above, and further in view of Harms, USPubN: 2002/0042911

(hereinafter Harms).

As per claim 5, IntelWBTA discloses preparing for reinstallation of the device driver in

the computer using the stored device driver file, and re-installing the device driver in the

computer using the stored device driver file if determining whether the device driver is requested

to be re-installed in the computer (see steps 4-10, pg. 2-3; steps 4-13, pg. 4-6); but does not

explicitly teach determining whether a previously installed device driver exists in the computer,

and when determined that the device driver is requested to be re-installed in the computer

uninstalling the previously installed device driver. The uninstalling of a driver destined for a

same functionality or a version thereof coming from a previously installed older installation of a

driver was a known concept in the technologies of driver installation; and Harms shows that in

order to store to the registry the files corresponding to a driver targeted to be installed, some

uninstalling has to take place (see para 0037, pg. 3) in order for the same vendor's files to be put

into registry for reinstallation of the latest driver (see para 0039, pg. 3; para 0040-0043, pg. 4). It

would have been obvious for one of ordinary skill in the art at the time the invention was made

to manage the preinstallation process as by IntelWBTA so that if a previously installed version

of same vendor exists in the system registry this set of version files would asked to be removed

or uninstalled prior to reinstallation of the new driver files as taught by Harms because by

removing the files, the chances of interference from another set of files for the intended

functionality of the target application whose driver is reinstalled would be obviated, enabling the proper recognition -- hence operation -- of the desired version/instance of device (see *not interfere, can properly detect* - para 0003-0004, pg 1).

As per claim 6, IntelWBTA teach detecting a location to store a file and rebooting prior to reinstallation, i.e. the reinstallation of the device driver in the computer using the stored device driver file with preparing for re-installation of the device driver in the computer using the stored device driver file after the computer is re-booted (see steps 1-13, pg. 3-6); but does not explicitly teach registering a location where the device driver file is stored, after the previously installed device driver is uninstalled; and re-booting the computer and preparing for reinstallation of the device driver in the computer using the stored device driver file, according to the location of the device driver file, when determined that the previously installed device driver does not exist in the computer. But the reinstallation following a uninstall has been addressed with Harms' teaching vendor data entry into a registry location and reboot prior to reinstallation (see reboot – para 0036; para 0038-0043 pg. 3-4) from claim 5; thus, it would have been obvious for one of ordinary skill in the art at the time the invention was made to provide the uninstall prior to reboot and reinstallation as set forth by Harms, using registry location storage in light of the rationale from claim 5 above. One would be motivated to do so because this would enable to determine which registered files are in the system when an installation such as IntelWBTA's driver install is pending and because these files are required to be deleted prior for the latest version of files to be reinstalled to avoid interference as addressed above.

As per claim 7, IntelWBTA (in view of Harms) discloses the re-installing of the device driver further comprises re-booting (refer to claim 4) the computer after the device driver is re-installed in the computer.

As per claim 8, IntelWBTA only discloses one type of device driver and does not discloses wherein the device predetermined function is at least one printing, scanning, faxing, and digital image taking functions. Harms discloses that a driver to be installed can be an attached device for which pertinent software can be uninstalled and reinstalled; and that such device can be a printer, scanner or display device (see para 0024, pg. 2). In light of the common practices that computer operate with devices being attached thereto, it would have been obvious for one of ordinary skill in the art at the time the invention was made to apply the driver installation as set forth above by IntelWBTA so that the targeted driver can also be that for any device attached to a computer, e.g. a scanner or a printer, because hardware/devices attached to a computer like network card, printer or graphics card, do come with pertinent software driver and the indispensable vendor drivers such as by IntelWBTA or Harms; and having the most appropriate software files to operate any such attached device would enable the application using such device to operate, lest such attached devices would be improperly supported or misrepresented for proper usage (see Harms SUMMARY).

As per claim 11, IntelWBTA discloses that the second driver installation unit comprises:

an installation request examination unit, which examines whether a re-installation of the device driver is requested and outputs an examination result as a second control signal (e.g. *insert CD, auto run...window explaining ... features* - steps 1-2, pg. 1; *click Next* - steps 4-10, pg.

2-3 – Note: *Next* button being clicked reads on requests being translated into result thereby more *Next* clicking action can be effectuated);

a second installation preparing unit, which prepares for re-installation of the device driver using the stored device driver file in response to the third control signal, and outputs a preparation completion signal representing whether the preparation is completed (*finished installing software required for this device* - steps 4-10, pg. 2-3 - Note: *Next* button being clicked reads on requests being translated into result thereby more *Next* clicking action can be effectuated); and

a second installation unit, which re-installs the device driver by reading the stored device driver file in response to the preparation completion signal input from the second installation preparation unit (e.g. *finished installing software required for this device* - steps 4-10, pg. 2-3 – Note: run 'Setup.exe' in step 4, pg. 4 reads on installation after acknowledging input signal that the driver is loaded in step 10 of pg. 3).

But IntelWBTA does not explicitly disclose a driver examination unit, which examines whether a previously installed device driver exists in response to the second control signal and outputs another examination result as a third control signal and driver uninstallation unit, which uninstalls the previously installed device driver in response to the third control signal and outputs an uninstallation completion signal representing whether the uninstallation is completed; and a second installation unit in response to the uninstallation completion signal re-installs the driver upon an output signal that uninstallation has completed. But this uninstallation signal being recognized prior to reinstallation has been addressed in claims 5 and 6 above.

As per claim 16, this claim corresponds to the subject matter of claim 11, hence is rejected with the corresponding rationale as set forth therein.

Response to Arguments

8.   Applicant's arguments filed 8/31/06 have been fully considered but they are not persuasive. Following are the Examiner's observations in regard thereto.

USC §101 rejection:

(A)   Applicant has submitted that from Fig. 4 of the Specifications the teaching of hardware support or embodiment has rendered the rejection by Examiner clearly improper. It is noted that there is not sufficient teaching in the claim language that a computer based embodiment is behind the element referred to as 'apparatus' because the Specifications does not explicitly specify that by 'apparatus' it always means a computer, i.e. a meaning by way of inherent teaching dictating that apparatus cannot be otherwise than a computer. The apparatus depicted as being a computer in a Figure does not necessarily enforce that the term 'apparatus' has to be equated with a computer --which is not a commonly accepted meaning of what 'apparatus' represents -- in all forms of embodiment. That is, absent a deliberate definition in the Specifications enforcing that 'apparatus' is a computer and only a computer, this limitation has to be interpreted in light of the claim language, and in so doing, the 'apparatus' is interpreted as comprising of first and second installation unit, none of which clearly support a tangible embodiment, i.e. the example provided via Fig. 4 will not be read into the claim because the claim has to stand on its own without any deliberate definition as set forth above.

The argument is non-convincing, and the rejection is maintained.

USC §102 rejection:

(B)   Applicant has submitted that IntelWBTA fails to suggest or teach 'copying and storing

the device driver file' via the cited portion referred to as 'Windows has finished installing the

software required for' an installed device (Appl. Rmrks, pg. 8, middle). It is noted that the act of

installing essentially entails the transferring of necessary files from one media (*CD-ROM drive* –

IntelWBTA, pg. 1) onto another, which is mostly the storage area intended as target environment

wherein the installed files will be activated and deployed for a specific purpose such as a driver

for an application. That is, without storing of files to a target environment as shown by

IntelWBTA there would be no file installation, and the installation will be aborted for failing to

install. The completed installation process as cited clearly shows that the all the necessary driver

files have been put where they are needed (...*finished installing*...) and if such is true then files

transfer as well as their storage in the target medium has completed; and true also is the copying

process from the (CDROM) source to the destination medium; i.e. *copying* and *storing* are

disclosed by way of inherency. It is very hard to disassociate the process of installing and that of

copying in terms of two unrelated actions that would not depend one another. The applicant

admits that installing is disclosed but denies that copying (and/or storage) is taught; which is not

reasonably sound with the CD-ROM based installation process as known in the art. When a CD

ROM (read-only) medium is inserted and submitted to an installation command, files for such

driver can only be transferred over to the target storage by the only way possible; that is, having

copies of them transferred since the CD-ROM containing a product for reuse is not erasable.

IntelWBTA teaches a CDROM, a non-rewritable medium, and files therein can only be

transferred outside in form of copy thereof. The argument is hence not convincing.

        USC §103(a) rejection:

(C)   Applicant has submitted (Appl. Rmrks, pg. 9, middle) that neither IntelWBTA or Harms

teach or suggest all the features of claims 5-8, 11 and 16 because the features of claims 1, 9, and

12 are not taught based on the previous rationale by Applicant from above.   The rejection under

the rationale of 103(a) will stand because the Applicant does not provide sufficient counter

argument as to why combining as set forth in the Office Action would be improper notably when

section B above has it made clear that the features of claim 1 are deemed anticipated by

IntelWBTA.

Therefore, the claims will stand rejected as set forth in the Office Action.

Conclusion

9.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Tuan A Vu whose telephone number is (272) 272-3735. The

examiner can normally be reached on 8AM-4:30PM/Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Meng-Ai, An can be reached on (571)272-3756.

The fax phone number for the organization where this application or proceeding is

assigned is (571) 273-3735 (for non-official correspondence - please consult Examiner before

using) or 571-273-8300 (for official correspondence) or redirected to customer service at 571-

272-3609.

Any inquiry of a general nature or relating to the status of this application should be

directed to the TC 2100 Group receptionist: 571-272-2100.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tuan A Vu
Patent Examiner,
Art Unit 2193
November 3, 2006